

TOWN OF TIVERTON
ZONING BOARD OF REVIEW
MINUTES

JANUARY 2, 2008

7:30 P.M.

The following petitions were received and were heard by the Tiverton Zoning Board of Review on Wednesday, January 2, 2008 at 7:30 p.m. at the Tiverton Town Hall, 343 Highland Road.

Members present: Chairman David Collins, Jay Jackson, Richard Taylor, Susan Krumholz, Lise Gescheidt, & Raymond LaFazia (alternate).

Also present were: Peter Ruggiero, Town Solicitor, Mary Ann Escobar, Court Reporter and Gareth Eames, Building Inspector.

1. A petition has been filed by Stephen Maher of Middletown, RI and Ann Daly of Portsmouth, RI requesting a variance to Article VIII, Section 3.d.1 and Article V, Section 1 of the Tiverton Zoning Ordinance in order to raze and existing dwelling and to construct a new single family dwelling located at 120 Forand Lane, Tiverton, RI being Block 113, Card 21S on Tiverton Tax Assessor's Maps whereby developing within 200 feet of Stafford Pond with less than required frontage allowed in a R60 zoning district.

DECISION: Ann Daly appeared before the board requesting a continuance. She stated she needed to go through some additional planning with the planning board first. Ms. Krumholz made a motion to continue until February 6, 2008. Ms. Gescheidt seconded. The vote was unanimous.

2. A petition has been filed by Atlantic Management Group, LLC of Middletown, RI requesting a variance to Article XIV, Section 5.d. and Article X, Section 1 of the Tiverton Zoning Ordinance in order to construct a second floor addition to an existing structure located at 1780 Main Road, Tiverton, RI being Block 82, Card 34 on the Tiverton Tax Assessor's Maps whereby expanding a legal non-conforming structure by dimension with less than required parking spaces than are currently allowed in a GC zone.

DECISION: Attorney Leary appeared before the board representing the petitioner. Mr. Leary presented a set of elevations and also a site plan. The elevations were marked as Exhibit A and the site plan was marked as Exhibit B.

Attorney Leary explained the petition as follows: At the present time the building is a one story office building. There are two offices in the existing one story building. It's a conforming use. It's allowed in a general commercial zone where it's located. The proposal is to put a second story on the building as shown in the elevations.

There will be absolutely no change in the footprint. The second floor will cover exactly the same ground as the first floor footprint.

The present structure doesn't conform with the dimensional requirements as we know them today. It's too close to the set back lines and also occupies a greater percent of the lot that would be allowed today. This building was constructed well before any zoning requirements.

The second thing is that the building has and will have less than a number of parking spaces required under Article 10 Section 1A of the zoning ordinance. The petitioner is more than willing to agree that there will be as a condition if the board saw fit to grant the dimensional variances that there will be no more than one office on the second floor. Therefore, the only real change is that the building expands from two offices to three. Mr. Leary also stated as the board knows the dimensional variance may be granted and should be where the denial of it amounts to more than a mere inconvenience to the owner. Therefore, the petition is seeking the two dimensional variances under that standard

Bill Smith testified as follows: He has submitted a design for an alteration to the existing cesspool to be removed and a new conventional septic system to be installed. The system will be sized for nine employees.

Mr. Smith made a count with a 200 foot radius of the building for public parking spaces that would be available for use and he stated there was approximately 140. Currently on the site there are five spaces and could increase to six spaces each spaced at 9 by 20. The first floor level of the building has approximately 1595 of usable square feet and the second level would be an additional approximate 1500 square feet.

Mr. Taylor made a comment that the zoning requires gross square footage for parking and that would bring the parking to about 23 spaces.

Mr. Smith stated he has gone out to the building about four times and the parking lot has never been full.

Mr. Cullen, the president of Atlantic Management Group appeared before the board and explained that he wanted to add an office space on the second floor. He stated that he would like to put on the second floor while replacing the windows, and siding and doing some renovation work to the whole building. Mr. Cullen stated that he loved the design and the historic nature of this building and wished to improve on that.

Upon questioning from Ms. Gescheidt about the occupancy of this office, Mr. Cullen stated he did not have a tenant in mind as of yet for this space. Ms. Gescheidt was concerned about the type of business that could occupy this space. Mr. LaFazia had

a question whether the second floor would obscure any neighbor's view of the water. Mr. Cullen stated partially it would effect the neighbor to the south of him.

Many neighbors appeared before the board and voiced their concern over the driveway and parking in the neighborhood. One neighbor shares a driveway with this building and does not wish to have any traffic increase going through his property. As it is currently, they enter through one way and go around the other side through his driveway. He does not wish that to increase.

The Board went into Executive Session and discussed this petition. Ms. Krumholz made a motion to deny this motion based on the facts in which the board discussed. The parking is a real issue and what the petitioner suggested does not solve the problem. The petitioner knew when he bought this building what he bought. The petitioner did not show a hardship that is more than a mere inconvenience and the fact that the use will be more value is not a hardship as defined by the zoning act and by decided case law. Ms. Gescheidt seconded. The vote was unanimous.

Administrative Items: The minutes from last month were reviewed and amended to include that Mr. Taylor seconded the motion on Petition Number Five. Ms. Gescheidt made a motion to accept the minutes as corrected. Mr. Taylor seconded. The vote was unanimous.

Whereupon the meeting concluded at 9:15 p.m.

ZBR:mae

C E R T I F I C A T E

I, Mary Ann C. Escobar, Registered Professional Reporter, hereby certify that the foregoing 4 pages are transcribed to the best of my knowledge, skill & ability.

IN WITNESS WHEREOF, I have hereunto subscribed my hand this 31st day of January, 2008.

Mary Ann C. Escobar, RPR